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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,352	10/29/2003	Curtis Kell	CK-4-gw	6705
7590	09/22/2004		EXAMINER	
Michael I. Kroll 171 Stillwell Lane Syosset, NY 11791			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/696,352	Applicant(s) KELL, CURTIS	
	Examiner Jason M Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 6, 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities: In limitation (d), the "circuit board" lacks antecedent basis. The applicant cites an electronic circuit prior to the limitation, but not a circuit board. Appropriate correction is required.
2. Claims 8 & 9 are objected to because of the following informalities: Nowhere in the specification does the applicant disclose the device functioning with two switches concurrently in correspondence to the flag pole position. It is under the assumption that Claims 8 and 9 should be dependent on Claim 7, and have not been examined on the above merit. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Muenchow (U.S. Patent 5979101).
5. With regards to Claim 1, Muenchow discloses:
 - a. A tip-up having an elongated base [Figure 1: (3)] with first and second ends; a flag pole [Figure 1: (17)] disposed on a first end of the base also with first and second ends, wherein the second end of the flag pole is resiliently movably mounted to the first end of the base [Figure 1: (21)]; an elongated downward

extending arm disposed intermediate of the base [Figure 1: (13)] and further including a flag pole engaging member being disposed on the first end of the arm [Figure 1: (15)], a fishing line [Figure 1: (9)] with a hook [Figure 1: (75)] disposed on the second end of the arm; and whereby the first end of the arm is movable by the action of a fish striking the hook, and the flagpole is then disengaged from the flag pole engaging member toward an upright position [Column 4, Lines 1-26];

b. A means for a light disposed on the first end of the flag pole [Figure 1: (25)] whereby a light turns on when a fish strikes the hook and the flag pole is released into an upright position [Column 4, Lines 1-26];

c. A means for receiving and applying a potential to the means for a light whereby the light means can be powered [Figures 3&4: (31)];

d. A means for an electrical interconnection between the light and the potential whereby electrical current flows [Figure 5: (42)]; it is also inherent that such an electrical connection would exist else there would be no utility/enablement for the tip-up.

6. With regards to Claim 2, Muenchow teaches the means for a light includes flashing intermittently [Column 4, Lines 55-57].

7. With regards to Claim 3, Muenchow teaches the means for a light having an electronically controlled flashing light [Column 4, Lines 55-57]. It is also inherent of Claim 2 that a flashing light would be electronically controlled.

Claim Rejections - 35 USC § 103

8. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muenchow (U.S. Patent 5979101) as applied to Claim 2 above, and further in view of Reed (U.S. Patent 4437255).

9. With regards to Claim 4, Muenchow teaches a tip-up as cited above, but does not teach the tip-up including a wireless RF signal transmitter to permit a signal to be transmitted to a wireless RF signal receiver. Reed teaches a fish detecting system including an FM transmitter [Figure 3: (18)] sending a signal to an FM receiver [Figure 2: (30) and Figure 4]. It would have been obvious to modify the tip-up of Muenchow to incorporate the FM transmitter/receiver of Reed in order to provide a fisherman remote operation of the tip-up device.

10. With regards to Claim 5, Muenchow discloses a flag [Figures 1&2: (23)] disposed on the flag pole to permit a fisherman to be signaled that a fish strike has occurred.

11. With regards to Claim 6, Muenchow teaches a tip-up as cited above, including a light control assembly [Figure 1: (25)] having:

- a. A top cover [Figure 3: (41)] connected to a bottom cover [Figure 3: (37)];
- b. An electronic circuit [Figure 5: (42)] disposed internal the light control assembly;
- c. A light [Figure 3: (33)] disposed on a circuit board [Figure 3: (27)] to provide a signal to a fisherman that a fish strike has occurred.

Muenchow does not teach a sealing gasket disposed between the top cover and bottom cover. Reed teaches a rubber seal [Figure 3: (52)] between a top [Figure 3: (46)] and

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bottom [Figure 3: (48)] covers. It would have been obvious to modify the tip-up of Muenchow to incorporate the rubber seal of Reed in order to ensure a tight and proper seal to isolate the interior of the housing from water.

10. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muenchow (U.S. Patent 5979101) in view of Reed (U.S. Patent 4437255) as applied to Claim 6 above, and further in view of Dury (U.S. Patent 4907363).

11. With regards to Claim 7, Muenchow in view of Reed teach a fish detecting system as cited above, but neither Muenchow nor Reed teach a light socket being disposed on the electronic circuit for receiving the light. Dury discloses a weather insulated tip-up light mounting that includes a light socket [Figure 1: (24)] for receiving a light [Figure 1: (28)]. It would have been obvious to modify the tip-up of Muenchow with the FM transmitter/receiver of Reed to further incorporate the light socket of Dury, so as to provide the fish detecting device with a means for replacing the light in case of burnout or damage.

12. With regards to Claim 8, Muenchow teaches the use of mercury switches commonly used within the art and further notes their disadvantage due to environmental reasons [Column 1, Lines 32-33].

13. With regards to Claim 9, Muenchow teaches a rolling ball style switch [Figure 3: (29)] in the electronic circuit to turn the light on when the flag pole is in an upright position.

14. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muenchow (U.S. Patent 5979101) in view of Reed (U.S. Patent 4437255) and Dury

(U.S. Patent 4907363) as applied to Claim 9 above, and further in view of Dowling et al. (U.S. Publication 2002/0048169).

15. With regards to Claim 10, Muenchow in view of Reed and Dury teach a fish detecting device as cited above, but none teach the device having a microcontroller to control the light and RF transmitter. Dowling teaches a light-emitting diode system including a microcontroller [Page 2, Paragraph 39, last sentence]. It would have been obvious to modify the tip-up of Muenchow with the FM transmitter of Reed and the light socket of Dury to further incorporate the microcontroller of Dowling so as to provide a means for controlling multiple LEDs [see Muenchow: Column 4, Lines 54-56] in giving an illumination that is ostentatious in warning a user of a fish strike.

16. With regards to Claim 11, Muenchow teaches a means for receiving and applying the potential further including a portable power source being disposed as an integral part of the flag pole [Figure 1; Figure 3: (31); see also Dury: Figures 1&3].

17. With regards to Claim 12, Muenchow teaches the portable power source as a battery [Figure 3: (31); Column 3, Line 14].

18. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muenchow (U.S. Patent 5979101) in view of Reed (U.S. Patent 4437255), Dury (U.S. Patent 4907363), Dowling et al. (U.S. Publication 2002/0048169) as applied to Claim 12 above, and further in view of Bailey (U.S. Patent 3879880).

19. With regards to Claim 13, Muenchow in view of Reed, Dury, and Dowling teach a fish detecting device as cited above, but none teach the device having a means for electrical interconnection within the flag pole, wherein electrical wires pass through the

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bore to connect the light to the portable power source. Bailey teaches a tube with a bore [Figure 1: (1)] wherein electrical wires [Figure 1: (9, 10)] pass through to connect a light [Figure 1: (6)] to a portable power source [Figure 1: (8)]. It would have been obvious to modify the tip-up of Muenchow with the FM transmitter/receiver of Reed, light socket of Dury, and the microcontroller of Dowling to further incorporate the bore with electrical wires of Bailey. In doing so, the modification will allow for a power source to be located on the base rather than on the flag pole. Such would be beneficial in the case of multiple LEDs [see Muenchow: Column 4, Lines 54-56] or other light sources whereby the need and weight of a stronger power source may inhibit the flag pole's mobility by creating greater tension on the spring. With respect to the wires passing through the bore, it is obvious that such a modification would provide for an aesthetic appeal and protect the electrical communication from weather extremes and water.

20. With regards to Claim 14, Muenchow teaches an electrical interconnection with an on (open)/off (closed) switch [Figure 1: (29)] for controlling the apparatus. It should be further noted that Bailey also discloses a manual on/off switch [Figure 1: (19)] preventing accidental operation of the device when not intended.

21. With regards to Claim 15, Muenchow teaches the second end of the flag pole having a spring so that the flag pole is resiliently mounted to the base [Figure 1: (21)].

22. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muenchow (U.S. Patent 5979101) in view of Reed (U.S. Patent 4437255), Dury (U.S. Patent 4907363), Dowling et al. (U.S. Publication 2002/0048169) as applied to Claim 10 above, and further in view of Bailey (U.S. Patent 3879880).

23. With regard to Claim 16-17, Muenchow in view of Reed, Dury, and Dowling teach a fish detecting device as cited above, but none teach the device having a means for electrical interconnection within the flag pole, wherein electrical wires pass through the bore to connect the light to a portable power source located on the base. Bailey teaches a tube with a bore [Figure 1: (1)] wherein electrical wires [Figure 1: (9, 10)] pass through to connect a light [Figure 1: (6)] to a portable power source [Figure 1: (8)] located in the bottom of a base [Figure 1: (5)]. It would have been obvious to modify the tip-up of Muenchow with the FM transmitter/receiver of Reed, light socket of Dury, and the microcontroller of Dowling to further incorporate the teaching of Bailey whereby electrical wires pass through a bore to connect a portable source located in/on the base to the remote light source. The benefit of such a modification is in the case of multiple LEDs [see Muenchow: Column 4, Lines 54-56] or other light sources whereby the need and weight of a stronger power source may inhibit the flag pole's mobility by creating greater tension on the spring. With respect to the wires passing through the bore, it is obvious that such a modification would provide for an aesthetic appeal and protect the electrical communication from weather extremes and water.

24. With regards to Claim 18, Muenchow teaches an electrical interconnection with an on (open)/off (closed) switch [Figure 1: (29)] for controlling the apparatus. It should be further noted that Bailey also discloses a manual on/off switch [Figure 1: (19)] preventing accidental operation of the device when not intended.

25. With regards to Claim 19, Muenchow teaches the second end of the flag pole having a spring so that the flag pole is resiliently mounted to the base [Figure 1: (21)].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art pertinent to the current application:

U.S. Patent 5898372 to Johnson et al.;

U.S. Patent 5097618 to Stoffel;

U.S. Patent 5067269 to Eppley et al.;

U.S. Patent 4996788 to Wieting et al.;

U.S. Patent 4928419 to Forrestal;

U.S. Patent 3359673 to Roemer;

U.S. Patent 2973599 to Olson;

U.S. Publication 2003/0145508.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH



JOHN ANTHONY WARD
PRIMARY EXAMINER